

ZONING BOARD OF APPEALS MINUTES

October 14, 2014 – Regular Meeting
Delta Township Administration Building

I CALL TO ORDER

Chairman Reed called the meeting to order.

II PLEDGE OF ALLEGIANCE

Chairman Reed led the Board and others present in reciting the Pledge of Allegiance to the Flag.

III ROLL CALL

Members Present: Arking, Barnhart, Laforet, Newman, Parr, and Reed

Members Absent: Hicks - excused

Others Present: Chris Gruba, Assistant Planner

IV SET AND ADJUST AGENDA

There were no changes to the agenda.

V APPROVAL OF MINUTES

1. August 12, 2014 Regular Meeting Minutes

MOTION BY BARNHART, SECONDED BY NEWMAN, THAT THE MINUTES OF THE AUGUST 12, 2014 REGULAR MEETING OF THE ZONING BOARD OF APPEALS BE APPROVE AS PRESENTED. VOICE VOTE. CARRIED 6-0.

VI OLD BUSINESS - None

VII NEW BUSINESS

1. **CASE NO. V-14-5-13:** Ms. Shirley Ellis, requesting a setback variance for a side yard awning at her resident at 434 Theo Avenue per Section 3.7.0 (B) of the Zoning Ordinance.

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Mr. Gruba said in June of this year, the Planning Department received a phone call from a neighbor of Ms. Ellis' complaining about a front porch that was being constructed without a building permit. He said staff performed a site inspection and found that the porch was in the process of being constructed within the required front yard setback. Mr. Gruba stated that a request for a front yard variance came before the Zoning Board of Appeals on July 8th at which time the Board tabled the variance request. He noted that since the case was tabled, the applicant resolved the front porch encroachment by constructing a handicap access ramp which was exempt from the Zoning Ordinance and eliminating the need for a variance. However, Mr. Gruba noted that during the July 8th meeting, it was brought to the Board's attention that a halfway-completed side yard awning had been constructed without the applicant obtaining a building permit. He noted that upon further inspection by staff, it was determined that the side yard awning encroached three feet into the required side yard setback.

Mr. Gruba said the applicant informed staff that the reason why the side awning was constructed was to keep water out of the basement. Mr. Gruba noted that the applicant's house was constructed in 1940 and that the only access to the basement was by an exterior stairway. He noted that the awning was constructed to shield the basement from rainwater entering the basement. Mr. Gruba said staff had received complaints from the neighbors about the side awning and the fact that it was constructed without proper permits and that it was incomplete. Mr. Gruba informed the Board that the applicant was unable to attend this evening's meeting due to being visually handicapped and not having transportation to the meeting, but when he spoke with the applicant this afternoon, the applicant informed him that he had made all of the modifications to the structure that the Township's Building Inspector had requested. Mr. Gruba said staff had discussed several options for altering the awning that would shield the rain and avoid the need for a variance, but the applicant decided that he would apply for a variance to keep the awning as built.

Mr. Barnhart read a letter into the record from Mike and Shirley Ellis dated October 14, 2014 indicating that they had both planned on being present this evening, but Shirley was very sick and he did not have any means of transportation to the meeting. Mr. & Mrs. Ellis asked that their letter be shared with the Board and that if they were in attendance this evening, they would have shared the following:

1. All structural additions which the Township's Building Inspector wanted when he inspected the awning earlier this summer had been made.
2. There is no inside access to the utility room where the furnace, hot water heater, and sump pump were located and therefore, the outside stairway was the only access.
3. The side awning was built upon the original cement stairway structure and was providing shelter from not only rain, but the resulting flooding which took out the

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furnace, at a cost of \$600.00 for a new circuit board, and \$300.00 for the hot water heater self-ignition package, in the winter of 2012/2013.

4. Upon approval of the variance, they would paint with matching color and shingle the roof of the structure within the fall of this year, or early spring of next year.
5. Any additional projects would be closely coordinated with both the Planning and Building Departments.

Mr. & Mrs. Ellis concluded by writing that they wanted harmony, not divisiveness, and that they were trying to make the neighborhood look better, not worse. Mr. & Mrs. Ellis noted that they planned to roof next year and would be working with staff prior to completion as there would be both permits and drawings needed.

MOTION BY ARKING, SECONDED BY PARR, THAT IN CASE NO. V-14-5-13, SHIRLEY ELLIS, 434 THEO AVENUE, LANSING MICHIGAN 48917, IS REQUESTING A VARIANCE FOR AN EXISTING SIDE YARD AWNING SETBACK TWO FEET FROM THE SIDE PROPERTY LINE. SECTION 3.7.0(B) OF THE ZONING ORDINANCE REQUIRES A MINIMUM SETBACK OF FIVE FEET FROM THE SIDE PROPERTY LINE, THE AWNING WAS CONSTRUCTED WITHOUT A BUILDING PERMIT, BE APPROVED FOR THE FOLLOWING REASON:

- 1. THE VARIANCE REQUEST SATISFIES ALL FOUR OF THE BASIC CONDITIONS FOR GRANTING A VARIANCE AND SPECIAL CONDITION #1, WHERE THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS WHICH PREVENT CARRYING OUT THE STRICT LETTER OF THIS ORDINANCE. THESE HARDSHIPS OR DIFFICULTIES SHALL NOT BE DEEMED SOLELY ECONOMIC, BUT SHALL BE EVALUATED IN TERMS OF THE USE OF A PARTICULAR PARCEL OF LAND DUE TO THE FACT THAT THAT THERE WAS A FLOODING ISSUE ON THE SUBJECT PARCEL. ALSO, WHEN THE HOUSE WAS CONSTRUCTED, THE BUILDING CODE AT THE TIME ALLOWED FOR THE FLOODING PROBLEM TO EXIST. BY GRANTING A VARIANCE, IT “FORGIVES” THE SUBSTANDARD BUILDING CODE OF THE PAST.**

Mr. Barnhart said he concurred with Mr. Arking, especially when the Board became aware of what the flooding had already cost the applicant. He felt something had to be done to prevent water from entering the basement with limited options available.

Mr. Newman concurred with his fellow Board members and he requested staff to work with the applicant in coordinating the project as stated in the applicant’s letter to the

Board.

Mr. Arking said he didn't want it implied that his motion granted the applicant relief from the Building Code requirements and that the applicant would still be obligated to meet all Building Code requirements.

A friendly amendment was made to add the following language to the motion.

THE VARIANCE IS CONTINGENT UPON COMPLIANCE WITH THE BUILDING CODE REQUIREMENTS AND OBTAINING THE NECESSARY PERMITS.

The amended motion reads as follows:

MOTION BY ARKING, SECONDED BY PARR, THAT IN CASE NO. V-14-5-13, SHIRLEY ELLIS, 434 THEO AVENUE, LANSING MICHIGAN 48917, IS REQUESTING A VARIANCE FOR AN EXISTING SIDE YARD AWNING SETBACK TWO FEET FROM THE SIDE PROPERTY LINE. SECTION 3.7.0(B) OF THE ZONING ORDINANCE REQUIRES A MINIMUM SETBACK OF FIVE FEET FROM THE SIDE PROPERTY LINE, THE AWNING WAS CONSTRUCTED WITHOUT A BUILDING PERMIT, BE APPROVED FOR THE FOLLOWING REASON:

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THE VARIANCE IS CONTINGENT UPON COMPLIANCE WITH THE BUILDING CODE REQUIREMENTS AND OBTAINING THE NECESSARY PERMITS.

VOICE VOTE. CARRIED 6-0.

VIII. OTHER BUSINESS – None

MOTION BY ARKING, SECONDED BY PARR, THAT MR. HICKS BE EXCUSED FROM THIS EVENING’S MEETING.

VOICE VOTE. CARRIED 6-0.

IX STAFF COMMENTS

X BOARD COMMENTS

Mr. Arking inquired about the Township’s new Sign Ordinance.

Mr. Gruba said staff was expecting the first draft of the Sign Ordinance very soon.

Mr. Arking said he had made comments on the consultant’s recommendations and he questioned if staff had received any feedback on his comments.

Mr. Gruba said the consultant formulated everything into the first draft of the ordinance.

Mr. Arking asked if the Zoning Board of Appeals would be meeting with the consultant regarding the first draft of the ordinance.

Mr. Gruba said the first draft of the ordinance would be forwarded to the Township Board for their review and that Zoning Board of Appeal members were welcome to attend that meeting. Mr. Gruba said he would speak to Community Development Director Mark Graham as to whether or not the Zoning Board of Appeals would hold a formal hearing regarding the Sign Code revision.

Board members expressed an interest of being informed when the first draft of the Sign Ordinance went before the Township Board.

XI ADJOURNMENT

Chairman Reed adjourned the meeting at 6:20 p.m.

DELTA CHARTER TOWNSHIP

Mary Clark, Secretary to the Zoning Board of Appeals

Minutes prepared by Anne Swink